

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

T.K., *et al.*)
Plaintiffs,)
)
v.) No. 2:08 CV 224
)
HANOVER COMMUNITY)
SCHOOL CORP.,)
Defendant.)

O R D E R

On October 15, 2008, this case was voluntarily dismissed without prejudice upon motion filed by plaintiff T.K.'s attorney, Dorene Philpot, pursuant to FED. R. CIV. P. 41. On October 21, 2008, the court received a letter from the plaintiff T.K.'s parent/next best friend, stating that the attorney retained on plaintiff's behalf had moved to dismiss the case without permission to do so, sent, and requesting that the case be reopened. The following day attorney Philpot filed a motion seeking to withdraw from the case due to the breakdown in relations with her clients. On October 24, 2008, the court referred that motion, along with the letter requesting the case be reopened, construed as a motion, to Magistrate Judge Cherry for the purpose of conducting any necessary hearing and issuing a report and recommendation.

On November 17, 2008, Judge Cherry conducted a hearing, made findings, and issued a written report and recommendation. Judge Cherry granted the parties until December 5, 2008, to file any objections. No objections have been filed.

In his report, Judge Cherry explained that at the hearing, plaintiff's parent/next

best friend: 1) consented to attorney Philpot's withdrawal; 2) requested that the case be reopened; but 3) after further discussion, requested, on behalf of plaintiff T.K., that the case be dismissed. Judge Cherry recommended that attorney Philpot's motion to withdraw be granted; the motion to reopen the case be granted; and the case again be dismissed without prejudice.

The court now **ADOPTS** Judge Cherry's report as its own, and acts, in slightly modified form, in accordance with his recommendations. T.K.'s parent/next best friend's request for dismissal is, essentially, a ratification of the earlier-filed motion to dismiss filed by attorney Philpot, which operates as a withdrawal of his (two) requests to reopen the case, and/or makes those requests moot. Accordingly, the court now **GRANTS** attorney Philpot's motion to withdraw (DE # 19), and **DIRECTS** the clerk to **TERMINATE** the motion to reopen the case (DE # 17) as withdrawn and moot. There is no change in the status of this case, it remains dismissed without prejudice.

SO ORDERED.

DATE: December 22, 2008

s/ James T. Moody
JUDGE JAMES T. MOODY
UNITED STATES DISTRICT COURT